

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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FARAH JEAN FRANCOIS,

Plaintiff,

-against-

1:22-cv-4447-JSR

STIPULATION

VICTORY AUTO GROUP LLC d/b/a VICTORY
MITSUBISHI, SPARTAN AUTO GROUP LLC d/b/a
VICTORY MITSUBISHI, STAVROS ORSARIS,
YESSICA VALLEJO, DAVID PEREZ, DIANE
ARGYROPOULOS, and PHILIP ARGYROPOULOS,

Defendants.
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Further to the Court's ruling memorialized in the Minute Entry entered in this action on 1/10/2023, Defendant SPARTAN AUTO GROUP LLC d/b/a VICTORY MITSUBISHI ("Spartan") hereby stipulates as follows:

With the onset of the COVID pandemic, on or about March 16, 2020, Spartan furloughed employee Yosmaily Ventura. Attached please find a copy of correspondence from the New York State Department of Labor (the "NYS Dept. of Labor"), mail date March 25, 2020, documenting Ms. Ventura's discharge effective 03/16/20 and her resulting claim for unemployment benefits.

Spartan also received from the NYS Dept. of Labor a Form LO 400, "Unemployment Insurance Notice of Potential Charges," dated 3/25/2020 concerning Ms. Ventura's claim. See attached copy of same.

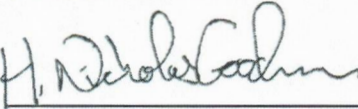
Ms. Ventura did in fact receive unemployment benefits during 2020 as indicated on the attached copy of the Form 1099-G issued by the NYS Dept. of Labor. Further, Ms. Ventura represented to the undersigned that she was not employed by or actively working for Spartan on May 30, 2020, and she stated that she had so advised Plaintiff's counsel as well.

Accordingly, Spartan stipulates that Yosmaily Ventura was not employed by or actively working for Spartan on May 30, 2020.

Dated: January 17, 2023
New York, New York

Yours, etc.

NICHOLAS GOODMAN & ASSOCIATES, PLLC

BY: _____

H. Nicholas Goodman

Attorney for Defendants

VICTORY AUTO GROUP LLC d/b/a

VICTORY MITSUBISHI and

SPARTAN AUTO GROUP LLC d/b/a

VICTORY MITSUBISHI, STAVROS ORSARIS,

YESSICA VALLEJO, DAVID PEREZ,

DIANE ARGYROPOULOS, and

PHILIP ARGYROPOULOS,

333 Park Ave. South, Suite 3A New

York, New York 10010

(212) 227-9003

ngoodman@ngoodmanlaw.com

To: **Via ECF & Electronic Mail**

The Law Office of Ahmad Keshavarz

Attorneys for Plaintiff

FARAH JEAN FRANCOIS

16 Court Street, #2600

Brooklyn, New York 11241

(917) 945-9848

emma@newyorkconsumerattorney.com

ahmad@newyorkconsumerattorney.com

Department of Labor
PO Box 15130
Albany, NY 12212-5130
www.labor.ny.gov

EFF. DT. 03/16/20
SOC. SEC. NO.:
ER NO. E53-67608
Mail Date: March 25, 2020

LO# 0831
REDACTED 1135

SPARTAN AUTO GROUP LLC
4101 BOSTON RD
BRONX NY 10466-6102

Dear Sir/Madam:

The Department of Labor has received information that shows your former employee YOSMAILY VENTURA was discharged from his/her job with you. In order to make a determination on this claim or the use of wage credits earned in your employ, we need specific information from you about this separation.

Please complete the attached questionnaire and fax it to 518-457-9492 or mail it to the above address immediately. We must receive your response within **7** calendar days of the mail date of this notice or a determination will be made based upon available information. If you do not respond timely and/or adequately, your account may not be relieved of charges relating to any overpayment of benefits on this claim. If you fax, do not mail originals.

Please note that if the claimant is determined to be eligible due to an untimely or an inadequate employer response, then charges to the employer's account may not be relieved. For your response to be accepted as timely, it must be received within the number of days as indicated above. All questions should be answered in detail in order to provide relevant information for the Department of Labor to render a correct determination regarding the claimant's eligibility or entitlement for benefits.

An electronic image will be made of only one side of your response. Therefore, it is important that you answer all questions and **write only in the space provided. If additional space is needed, you may use an 8 1/2 x 11-inch piece of white paper.** Do not staple or write outside the margins or on the back. Be sure the claimant's Social Security Number is on all documents you send.

Note for Faxes: This letter is designed for electronic handling through a fax server. Therefore, you must send the "Second Page" of this inquiry as the first page of your fax, with any "cover" page or attachments following. The fax number provided should only be used to respond to this inquiry and not for any other correspondence to the Department of Labor.

Please keep this cover letter for your reference. Do not return it with your response.

For the Commissioner of Labor

MC99 (2/15)

NYS 10-13 MC99



Department
of Labor

NYS

Second Page
Mail Date: March 25, 2020

EFF. DT. 03/16/20 LO# 0831
SOCIAL SECURITY NO. REDACTED 1135
ER NO. E53-67608

Information has been received by the Department of Labor that the claimant was discharged.

1. Claimant's physical last day of work: _____
Claimant's first day of work: _____
2. Claimant's job title: _____
3. Claimant's job duties: _____

4. Claimant's work location: _____
5. Name of claimant's Supervisor: _____
6. Rate of pay: amount \$ _____ ☐ per ☐ hour ☐ day ☐ week ☐ year

7. What were the claimant's hours and days of work?

	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday
Start time							
End time							

8. How was the claimant informed of the discharge? ☐ In person ☐ By phone ☐ By letter
By whom? _____ Title: _____
On what date? _____
If there was a delay between the times when the decision was made and when the claimant was notified, please explain why.

9. What was the final incident that resulted in the claimant's discharge and on what date did it occur?
Date: _____

10. What specifically was the claimant told about why he/she was discharged?

MC99.1 (2/15)

Third Page
Mail Date: March 25, 2020

EFF. DT. 03/16/20 LO# 0831
SOCIAL SECURITY NO. REDACTED 1135
ER NO. E53-67608

11. How were the claimant's actions detrimental to your business?

12. As it pertains to question 9 on the previous page, did the claimant violate a rule, policy or procedure?

a. If "YES", please explain in detail.

☐ Yes

☐ No

b. What was the claimant expected to do?

13. Did the claimant's job duties require a professional license?

☐ Yes

☐ No

Please explain:

14. How would the claimant have known that his/her actions described in question 9 on the previous page could cause or potentially cause discharge?

• Please attach a copy of any final warning and/or the specific policy if available.

• If the claimant was given a verbal/written warning, please indicate:

a. By whom?

Title:

b. When was the warning given? _____

c. What was the claimant told? _____

15. What reason did the claimant give you for his/her actions that led to discharge (please relate to question 9 on the previous page) and why did you not accept this reason?

16. Is there a process the claimant could have used to appeal his/her discharge?

☐ Yes

☐ No

If "YES", did the claimant avail himself/herself of the process?

☐ Yes

☐ No

What were the results if known?

17. Is the claimant a union member?

☐ Yes

☐ No

Please send a copy of any arbitration findings of fact regarding this issue if available.

MC99.2 (2/15)

NYS 10-13 MC99

NYS

Document 47 Filed 01/20/23 Page 6 of 9
EFF. DT. 03/16/20 LO# 0831
SOCIAL SECURITY NO. REDACTED 1135
ER NO. E53-67608

Employer Name: _____

Form completed
by (Print Name): _____ Title: _____

Tel. #: _____ Email: _____

Signature: _____ Date: _____

NYS



New York State
Department of Labor
PO BOX 15130
ALBANY NY 12212-5130

LO400 (09-13)

Date Mailed:	03/25/2020
Employer#:	53-67608
Claimant SS#:	REDACTED-1135

Use black or blue ink for corrections
and/or updates to this notice.

Unemployment Insurance Notice of Potential Charges

Part 1 of 2

SPARTAN AUTO GROUP LLC
4101 BOSTON RD
BRONX NY 10466-6102

If the above address is incorrect, refer to the
reverse side of this notice for assistance.

Reason for this Notice

The claimant designated below has filed a claim for Unemployment Insurance Benefits, naming you as a former employer. Please review the information below and follow the instructions for submitting changes. For assistance with this notice, see the reverse side "Guide to Understanding the Notice of Potential Charges."

Step 1 Claimant Verification

If the claimant was never employed or is currently employed full time by you, call NYS DOL at **888-890-5090**

Claimant: **YOSMAILY VENTURA**
19942 24TH RD 2ND FLOOR
WHITESTONE NY 11357

Social Security #: **REDACTED-1135**
Claim Effective / Start Date: **03/16/2020**
Benefit Year Ending Date: **03/21/2021**

Workplace: **CAR DEALERSHIP**

Step 2 Claimant Gross Wages Verification

Review the information below and make any necessary corrections. Any changes may affect your potential charges.

QUARTER START - END	GROSS WAGES	CORRECTION(S)	REASON FOR CORRECTION(S)
10/01/2018 - 12/31/2018	\$ 12351.97	\$ _____	_____
01/01/2019 - 03/31/2019	\$ 12500.00	\$ _____	_____
04/01/2019 - 06/30/2019	\$ 9924.56	\$ _____	_____
07/01/2019 - 09/30/2019	\$.00	\$ _____	_____

(UN) or (NC) Indicates that you are not liable for the charges associated with those wages. If a final determination pertaining to this claimant and this separation was already issued in your favor, an updated Notice of Potential Charges may be issued. For questions about this notice, please call 888-890-5090.

Step 3 Employer's Potential Charges

WEEKS	POTENTIAL WEEKLY CHARGES	TOTALS
1 thru 7	\$ 504.00	\$ 3528.00
8 thru 26	\$ 336.89	\$ 6400.91
Total Maximum Potential Charges:		\$ 9928.91

NOTE: Generally, if you were the claimant's last employer, you will be charged the full rate for weeks 1 - 7. The charges for weeks 8 - 26 are based upon the percentage of base period wages paid by your company, relative to wages paid by all other employers in the period. In some cases, the entire claim may be prorated. If you are the last employer and paid total wages equal to or less than six times the potential weekly charges listed for Weeks 1 - 7, see instructions on the reverse.

Step 4 Certification

If you have **not** made changes, please do **not** return this notice. Retain for your records.
If you have made changes to Step 2, complete the information below and return immediately.

Print Your Name _____ Title _____ E-mail Address _____
Signature Required _____ Area Code _____ Telephone Number _____ Extension _____ Date _____

Step 5 Supporting Documentation and Return Instructions

Submit all supporting documentation on 8 1/2 x 11 paper. Write the claimant's name and social security number on each attached page. To submit this notice, select from the options below.



FAX: 518-402-6175

This notice is your cover page.
Indicate total # of pages _____

OR



MAIL:

New York State Department of Labor
PO BOX 15130
ALBANY NY 12212-5130

If you feel that the claimant should not receive Unemployment Benefits, see Notice of Protest, Part 2



For assistance with job orders and hiring
incentives, Call 1-800-447-3992



For additional information visit
our website: www.labor.ny.gov



For questions about this notice,
Call 888-890-5090



New York State
Department of Labor
PO BOX 15130
ALBANY NY 12212-5130

LO400P (0913)

Date Mailed:	03/25/2020
Employer#:	53-67608
Claimant SS#:	REDACTED 1135

Use black or blue ink for corrections
and/or updates to this notice.

Unemployment Insurance Notice of Protest

Part 2 of 2

SPARTAN AUTO GROUP LLC

If the above address is incorrect, refer to the
reverse side of this notice for assistance.

Reason for this Notice

The claimant designated below has filed a claim for Unemployment Insurance Benefits, naming you as a former employer. Complete and return this notice only if you know of any reason why the claimant should not receive benefits. For assistance with this notice, see the reverse side "Guide to Understanding the Notice of Protest".

Claimant Information

Claimant: **YOSMAILY VENTURA**
19942 24TH RD 2ND FLOOR
WHITESTONE NY 11357

Social Security #: **REDACTED 1135**
Claim Effective / Start Date: **03/16/2020**
Benefit Year Ending Date: **03/21/2021**

Workplace: **CAR DEALERSHIP**

Step 1

Reason for
Separation

Fill in appropriate box ☐ for reason why the claimant should not receive Unemployment Insurance Benefits. Reductions in Force and/or Lack of Work are not reasons which would result in a denial of benefits.

- ☐ Voluntarily Quit - Claimant's Last Day Worked: ____ / ____ / ____ Reason: _____
- ☐ Strike / Lockout - Incident Beginning Date: ____ / ____ / ____
- ☐ Misconduct Discharge Claimant's Discharge Date: ____ / ____ / ____
- Specific Incident and/or Violation: _____

Need help?
See *Protesting
Claimant's Benefits*
on the reverse side
of this notice

☐ Educational Institutions only - The claimant has been given an offer of reasonable assurance for the next term or semester.

Step 2

Claimant
Separation
Payments

Fill in appropriate box ☐ to include any payments made to the claimant which cover a specific period occurring after the last day of work.

- ☐ Payment of Pre-Arranged Vacation/Holiday Period Amount: \$ _____ From ____ / ____ / ____ To ____ / ____ / ____
- ☐ Dismissal or Severance Related Payments Amount: \$ _____ From ____ / ____ / ____ To ____ / ____ / ____
- ☐ Pension Pay ☐ Monthly ☐ Yearly Amount: \$ _____ Effective Date ____ / ____ / ____

Step 3

Certification

Complete the information below and attach supporting documentation before returning this notice.

Print Your Name Title E-mail Address

Signature Required Area Code Telephone Number Extension Date

Step 4

Supporting
Documentation
and Return
Instructions



Submit all supporting documentation on 8 1/2 x 11 paper. Write the claimant's name and social security number on each attached page. To submit this notice, select from the options below.



FAX: 518-402-6175

This notice is your cover page.
Indicate total # of pages _____

OR



MAIL: New York State Department of Labor
PO BOX 15130
ALBANY NY 12212-5130

This notice should be returned only if you are protesting the claimant's request for Unemployment Benefits.



For assistance with job orders and hiring
incentives, Call 1-800-447-3992



For additional information visit
our website: www.labor.ny.gov



For questions about this notice,
Call 888-890-5090

NEW YORK STATE DEPARTMENT OF LABOR
PAYMENT UNIT, BUILDING 12 1099-G
PO BOX 621
ALBANY, NY 12201-0621

Y VENTURA
19942 24TH RD 2ND FLOOR
WHITESTONE NY 11357

Do You Qualify For An Earned Income Credit?

You may be entitled to a Federal tax credit. The amount of the credit is based on your earned income such as wages and self-employment. This credit may be allowed even if you do not owe any Federal income tax. However, you must file a Federal income tax return to obtain the credit. See the instructions on your Federal income tax forms to determine if the amount of your income allows you to claim this credit.

Important Information About Form 1099-G

Because you received unemployment compensation payments of \$10 or more in 2020, New York State is required to report those payments to the Internal Revenue Service, and give you Form 1099-G by January 31, 2021.

Unemployment compensation includes:

- Unemployment Insurance payments
- Federal Extended Benefits payments
- TAA (Trade Adjustment Act) basic, retroactive, and additional training payments
- PUA (Pandemic Unemployment Assistance) payments
- LWA (Lost Wages Assistance) payments

Please keep Form 1099-G for your records. You will need this information to complete your Federal, State and local income tax returns. If you did not receive any unemployment compensation this year, but repaid an overpayment, this form is being sent in case it will be of help to you.

Note: Unless you have voluntarily authorized Federal or State withholding,

Federal, State and local income taxes are not withheld on unemployment compensation. If you expect to receive these benefits in the future, you can ask the Department to withhold Federal and State income tax from each payment. Or, you can make estimated tax payments during the year. For more information regarding how to make estimated tax payments, see instructions on the appropriate tax return, or, contact the Internal Revenue Service or the NYS Department of Taxation and Finance.

BOX 1 Shows the total unemployment compensation paid to you this year. For tax year 2020, combine the box 1 amounts from all Forms 1099-G, and report the amount as income on the unemployment compensation line on your return. Except as explained in the following instructions for the remaining boxes, this is your taxable amount. If you are married filing jointly, each spouse must figure his or her taxable amount separately.

If this 1099-G is for a year other than 2020, see the instructions on the appropriate tax return, or contact the Internal Revenue Service, the NYS Department of Taxation and Finance or your local taxing authority to determine the amount of taxable unemployment insurance.

BOX 2 Shows adjustments credited to you this year. **INCLUDES:** Your cash payments and income tax refunds used to pay back overpaid benefits. **DOES NOT INCLUDE:** Your payments to cover penalties, and your unemployment insurance benefits used to pay back overpaid benefits. Adjustment information may be helpful to you in filing your return.

BOX 4 Shows total Federal income tax withheld from unemployment compensation paid to you this year. If you voluntarily authorized withholding, tax has been withheld at a 10% rate. Include this amount on your income tax return as tax withheld.

BOX 5 Shows Reemployment Trade Adjustment Assistance (RTAA) payments you received. The amounts are not included in the Box 1 total. Include on Form 1040 on the "Other income" line. See the Form 1040 instructions.

BOX 10a Shows the payer's state.

BOX 10b Shows the payer's Federal Identification Number.

BOX 11 Shows total State income tax withheld from unemployment compensation paid to you this year. If you voluntarily authorized withholding, tax has been withheld at a 2.5% rate. Include tax withheld, if any, on your income tax return.

Future developments. For the latest information about developments related to Form 1099-G and its instructions, such as legislation enacted after they were published, go to www.irs.gov/form1099g.

PAYER'S name, street address, city, state, ZIP code, Federal identification number, and telephone number

NEW YORK STATE
DEPARTMENT OF LABOR-UNEMPLOYMENT INSURANCE
ALBANY, N.Y. 12240-0001

<https://on.ny.gov/1099-G>

PAYER'S Fed. Id. No. 27-0293117

Phone 888-209-8124

OMB No. 1545-0120

Statement for
Recipients of
Certain
Government
Payments

2020

Form 1099-G (12/20)

RECIPIENT'S identification number	1. Unemployment compensation	2. Adjustments	3.	4. Federal income tax withheld
REDACTED 1135	\$11,352.00	\$0.00		\$1,135.20
RECIPIENT'S name, street address, city, state and ZIP code			5. RTAA Payments	6.
			\$0.00	
			7.	8.
			9.	
Y VENTURA 19942 24TH RD 2ND FLOOR WHITESTONE NY 11357			10a. State Identification No. 27-0293117	11. State income tax withheld \$283.80

This is important tax information and is being furnished to the Internal Revenue Service. If you are required to file a return, a negligence penalty or other sanction may be imposed on you if this income is taxable and the IRS determines that it has not been reported.